The facts of the case and the circumstances under which the ruling was given have also to be considered. The reference to the proceedings of the Madras Council does not help us because, in Madras, there is only a unicameral Legislature.

What is said to be a rule in Ceylon is of doubtful value to us here. I think the House will not be willing to borrow lessons in constitutional law from Ceylon where the Legislature depends on an Order-in-Council, a legislature with very much lesser powers than the British Indian Legislature which has been brought into existence by an Act of Parliament. According to the British constitution, the Government of a Colony like Ceylon has got lesser rights in law than British India. The Governor and the Legislature in a Colony like Ceylon have powers which are more limited than those of the Governor-General and the Houses of Legislature in British India. In these circumstances, I do not think it will be proper for me to follow what is said to be done in Ceylon.

It has been now pointed out to me that the Dewan would have no objection to give his permission contemplated in Standing Order 46 sub-order (4). It runs as follows :

> " At this stage of the motion for passing the Bill, and prior to the making of the motion, the Assembly shall consider the amendments, if any, moved on behalf of Government. No amendments other than those connected with the amendments moved on behalf of Government shall, without the special permission of the Dewan, be brought up for consideration at this stage ".

While respecting the powers vested in the Dewan by the Regulation and the Rules, I think this is a matter in which I, occupying the Chair, must take my own view. The Government does not move any amendment. And no member of the House has stood up to move the amendment. Nor does it appear that any member has, on request made to the Dewan, obtained such permission. I, therefore, decide the point against what is contended for by the Law Member. We shall not be in order if we continue the discussion.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : So my motion is ruled out ?

DEPUTY PRESIDENT : Yes. The motion that the Bill be passed into law is ruled out.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, I did not move any amendment. I only moved that the Bill be passed as it stands, without any amendment.

DEPUTY PRESIDENT : I rule out the motion because it means an infringement of the rights of the other House. We shall proceed to the next item of business.

THE TRAVANCORE REGISTRATION REGULATION AMENDMENT BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : I beg to present the report of the Select Committee on the Travancore Registration Regulation (Amendment) Bill and beg to move that the Bill as reported be taken into consideration.

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MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): I have given notice of an amendment to say that the proposed amendment to the Bill be dropped. My reasons for that are as follows.

MR K. KUNJUKRISHNA PILLAI (*Quilon I*): On a point of order. An amendment like 'to drop the Bill' cannot by any stretch of imagination be conceived as an amendment to the Bill. If the member wants not to proceed with the Bill, there are other courses open under the Rules and Standing Orders. That is, either to make a motion for passing on the motion next in order or adjourn the business to another session. There are these methods for achieving the member's object and the present method suggested by the member is not the method. May I submit that this cannot be called an amendment by any stretch of imagination?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): All that I meant by suggesting such an amendment is that such an Amendment Regulation is not necessary.

DEPUTY PRESIDENT: An amendment which positively negatives a motion is no amendment.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): There is only one clause in the present instance. It is impossible to amend it in any manner other than the one suggested by me.

DEPUTY PRESIDENT: At an earlier stage something could have been done.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): How? The Law Member only wants to introduce this particular clause or phrase in the Regulation.

DEPUTY PRESIDENT: That could have been attacked when it was introduced.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): In the Select Committee, this matter was discussed at great length and it was found such a step unwelcome and unsustainable. It is only on a study of the subject, the matter turned out to be absolutely untenable.

DEPUTY PRESIDENT: When the Bill comes up for consideration the member may resort to his right to oppose the motion.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): If that is the proper procedure, I oppose the motion moved by Mr. Parameswaran Pillai.

May I submit my reasons for opposing the motion?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): The objection raised by Mr. P. K. Narayana Pillai is not really to my motion that the Bill be taken into consideration. When that motion is carried and the clauses are put to the House he may oppose.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Can I move any amendment only when the clause is taken into consideration?

DEPUTY PRESIDENT: The motion before the House is that the Bill as reported by the Select Committee be taken into consideration.

The motion was carried.

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Clause 2.

DEPUTY PRESIDENT: There is an amendment standing in the name of Mr. P. K. Narayana Pillai.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : I oppose the clause. To make myself understood, I will add a few words by way of explanation. The Travancore Registration Regulation is based upon the Registration Act in British India. There, attachments placed upon immovable properties under the Code of Civil Procedure need not be registered at all. Therefore a very strong case must be made out why such a provision should be introduced into the Travancore Registration Regulation. If it is a case of inability of the parties or strangers to understand whether an attachment has been levied, in British India the need is greater. For the distance between the courts and the various villages is much more than it is in Travancore. It has been systematically ruled by the High Court of Travancore and all courts in British India, so far as I am aware, that attachment does not create any interest in the property attached, especially immovable property. That being the case, demands of the Registration Regulation which require compulsory registration would not come into play at all. When therefore the parent enactment does not insist upon registration, a provision for registration of attachments is uncalled for and illogical.

There are many inconveniences too, which have not been taken into account. The litigant in Travancore, who is in the grip of economic distress, finds it impossible to pay even the court fees due. If attachment is to be registered according to the provisions of this Bill, at the time of placing the attachment, money will have to be paid for the purpose of registering the attachment. Generally, attachments are granted on exparte applications. When the opposite side shows cause why an attachment should not be effected it is withdrawn. Then also a registration fee is stipulated. The order of the court below may be appealed against, and registration has to be repeated. Attachments will be levied and withdrawn quite frequently and the parties will have to keep pace with the vicissitudes.

MR. A. S. DAMODARAN ASAN (*Mavelikara*) : Is it for removal of attachments ?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*) : For removal as well.

Why should a party who applies for an attachment be taxed for the registration and the withdrawal of the attachment? I am not able to understand. It does not stand to reason.

Further, under the Civil Procedure Code, so soon as an execution application is dismissed, the attachment falls to the ground. The execution creditor wants to execute his decree. Owing to some default on his part, his application may be dismissed. He is also penalised, being obliged to pay for the termination of the attachment which ceases much against his will. A litigant therefore has to find money for registration, withdrawal, termination and restoration of attachments. All this calls for serious consideration. Though ultimately

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[Mr. P. K. Narayana Pillai.]

the cost may be recovered, the reason why a party should be handicapped in the exercise of legal rights under the Code of Civil Procedure is not clear.

Again the present Registration Director, who was consulted in the matter, tells and very correctly, as I thought, that the Sub-registrars' offices will be overcrowded by heaps of registration-books?

DEPUTY PRESIDENT: What is the source of that information.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): The Registration Director was consulted at a meeting of the Select Committee. The Director is an expert on the subject. He said that, if all these attachments are to be registered, the number of books that may be required for registering and withdrawing attachments would be so numerous that he may not find it possible to keep all the registration-books in the Sub-registry offices in the almirahs allowed to them. The over-flow would be tremendous. Where is the necessity of preserving the records of these attachments for ever as in the case of other registered deeds?

MR. N ABDUR RAHIMAN SAHIB (*Nominated*) What about attachment before judgment?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): I will come to that.

So then attachments will have to be preserved as if they are deeds relating to immovable property under hypothecation or mortgage. After the termination of execution, no man will care a jot about attachment. To perpetuate the memory of attachments after that is quite unnecessary?

MR N. E. VARUGHESE (*Tiruvalla I*): May I know whether attachment is a charge on the immovable property?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): No. Attachment before judgment is another variety: that too comes to an end with the close of execution. It may be said that the debtor shall have to alienate his property but may be hampered on account of the doubtful existence of attachments over it. That, however, is not taken into account in British India for good reasons. A list of attachments may be preserved in courts for the information of the public.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Does it not create a right so as to enable the creditor to prefer a claim petition under Section 275, Order 21?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): A claim may be preferred against an attachment. No doubt, without preferring a claim a person can file a suit also. For the purpose of getting information whether an attachment is existing or not, a circular of the High Court is sufficient. A court that proceeds to attach property must keep, in cases of attachments, a book or register about them and that must be made available to the public at large.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Can that be done with the existing staff?

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): If the staff is found to be inadequate, additions can be made. That difficulty would arise in the Registration Department also.

So, when it is quite possible to get information on payment of a small fee in the courts to support any additional staff that may be sanctioned, the question can be very satisfactorily solved without overburdening the Sub-Registrars in each locality who may probably have more than one court within their jurisdiction.

MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): Is there any suggestion by the member to remove the evil sought to be remedied by the Bill?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): If the High Court would direct by a Circular that each subordinate Court will have to keep a list of attachments from which all the previous steps can be found out, it will easily solve all difficulties without the worry, expense and over-doing involved in a scheme of registration.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Has the member any idea of the average number of attachments effected in a Munsiff's Court in an year?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): I have nothing like any definite idea. But it is a matter of common occurrence in courts, as my friend himself may know.

MR. A. THANU PILLAI (*Trivandrum-Rural*): I wish to know the volume of attachments?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): At least one or two attachments will be taking place each day, on an average.

MR. T. P. VELAYUDHAN PILLAI (*Tiruvalla III*): Will it not raise the volume of records kept in the Munsiff's Courts?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Certainly. If they are to be registered, the work will go up in the Sub-Registrar's Offices.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Sir, I support the clause and oppose the amendment of Mr. P. K. Narayana Pillai. From the Sub-Registry office we are able to know only the encumbrances that exist on the properties. It is very difficult to know whether attachments have been effected on such properties. It is only proper that sufficient facilities must be given for the transfer of properties in order that business may be transacted between honest men. It is very difficult to go and enquire in the Munsiff's Court and ascertain whether a particular property has been attached in any one of the thousands of cases pending there. My friend has been complaining that, if this amendment is passed, additional hands have to be employed. It is a very small matter. A decree-holder wants to prevent private alienation of properties by effecting attachment for safe-guarding his interests. When a judgment-creditor wants that privilege, I do not think that he will in any way object to pay a small registration fee of 8 or 12 annas; and another difficulty that my friend anticipates is that another fee has to be paid if the attachment is to be removed subsequently.

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): That is found in the present Bill.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I felt a difficulty with regard to the effect of non-payment of that fee and that is why I asked a question to my friend. But that difficulty could be avoided by the debtor paying such fee as he is the person that is interested in removing the attachment. Hence when an attachment has been withdrawn, the judgment-debtor, who is interested in the communication of the fact of the withdrawal of the attachment, will pay the fees. With these observations, I support the clause in the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): In the debate on this clause, I think, that the very same points that were dealt with at the first reading of this Bill are being raised. I am not objecting to those points being reiterated today; but I am only pointing out that the principle of the Bill has received the acceptance of this House at the first reading and that principle is being opposed today. Why should this House go back upon the principle of the Bill that was once accepted? To say that this clause should not be accepted is to say that the whole Bill should be dropped. As a matter of fact, that in terms was the amendment given notice of by the Honourable Member. It seems to me that he must give some very substantial reasons why we should go back upon the principle already accepted. Nothing has, however been mentioned. I may say that the principle involved in this Bill is that, whenever attachments are ordered by Courts, the public should have a ready means of ascertaining it. If an attachment is effected at the instance of a decree-holder, this Bill requires that notice of the attachment must be sent to the Registrar's Office. Any member of the public can, if he wants, go into the Registrar's Office and get information of it. As for the cost of notice, the person who attaches the property should in fairness be called upon at the outset to pay a fee for issuing the notice. It may be asked why he should bear the cost. It may be pointed out in reply that this cost will become costs in the case and eventually be a charge on the guilty party. It has been said here that, by the issue of a single circular, the High Court can achieve what is sought by the Bill. It is not a very easy or desirable method. I may bring to the notice of the House that the High Court considered this Bill and they are for the Bill and they have also said that the alternative of keeping a record in the court itself is not feasible and that in any event it is better that we make such provision as would enable the public to find out all these things in one and the same office, namely the Registrar's Office. I may add that the Law's Delays Commissioner also has recommended a legal provision on the lines of this Bill being enacted.

MR. N. E. VARUGHESE (*Tiruvalla I*): May I know what is the practice in British India.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): There is no such provision in British India. And as for the matter of that they have no provision to register even court sales as we have already in our Regulation.

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DEPUTY PRESIDENT: The question is that clause 2 stand part of the Bill.

Clause 2 was added to the Bill.

Clause 1.

DEPUTY PRESIDENT: The question is whether clause 1 should stand part of the Bill?

Clause 1 was added to the Bill.

PREAMBLE AND TITLE.

DEPUTY PRESIDENT: The question is whether the preamble and title form part of the Bill?

The preamble and title were added to the Bill.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I shall now proceed to the third reading of the Bill. I shall move a formal amendment, namely that, in clause (1) sub-clause (i), for the figure 1110, the figure 1111 be substituted.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I move that the Bill just now amended be passed into law.

MR. C. V. CHADRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

The motion was carried.

THE TRAVANCORE CO-OPERATIVE SOCIETIES BILL.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, I rise to introduce the Travancore Co-operative Societies Bill. It has been published in the Gazette with a Statement of Objects and Reasons; and I now beg to move that the Bill be read in the Assembly.

MR. C. V. CHANDRASEKHARAN (*Ag. Director of Public Instruction*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, this is a very important Bill and I am sure that that will not be denied by anybody. At the same time, I feel that it does not require much of a speech to explain the principles underlying the Bill. Very recently we had a full debate on the Co-operative Enquiry Committee Report of which this Bill was a part; and, as the Honourable members are aware, this Bill itself was the subject of discussion for a considerable time on that occasion. Again the day before yesterday, we had some discussion over the principles embodied in the Bill. I shall not therefore take up any time of the House to explain this Bill. I need only say that the Bill now placed before the House is in substance the Bill that has been drafted and recommended by the Co-operative Enquiry Committee, *minus*, however, one portion of it which evoked much adverse comment on the occasion of the discussion of the report in this House. That portion relates to a power which was proposed to be vested in the Registrar to cancel the bye-laws

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